

## Message Text

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PAGE 01 EC BRU 02596 302000Z

62

ACTION EUR-25

INFO OCT-01 IO-14 ISO-00 SWF-02 AID-20 CEA-02 CIAE-00

COME-00 EB-11 FRB-02 INR-10 NSAE-00 RSC-01 CIEP-02

SP-03 STR-08 TRSE-00 LAB-06 SIL-01 SAM-01 OMB-01

NSC-07 SS-20 DODE-00 PA-04 USIA-15 PRS-01 SAJ-01 L-03

DRC-01 /162 W

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R 301820Z APR 74

FM USMISSION EC BRUSSELS

TO SECSTATE WASHDC 6797

INFO AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY THE HAGUE

USMISSION GENEVA

USMISSION OECD PARIS

UNCLAS EC BRUSSELS 2596

E. O. 11652: N/A

TAGS: EFIN, EIND, EEC

SUBJ: FOREIGN INVESTMENT CLIMATE--EUROPEAN ECONOMIC  
COMMUNITY

REF: A) STATE 86374

B) STATE 53993

C) EC BRUSSELS A-125 MARCH 27, 1973

1. IN RESPONSE TO REFTELS, THE MISSION IS SUBMITTING  
AN UPDATED NARRATIVE ON THE INVESTMENT CLIMATE REPORTED  
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PAGE 02 EC BRU 02596 302000Z

IN REF C. AS NOTED IN REF C, THE NINE MEMEBER STATES

ARE BETTER SOURCES FOR INFORMATION AND STATISTICS REQUESTED IN REF B, PARAS 4 AND 8, THAN THE EC COMMISSION. WE ARE, OF COURSE, READY TO ASSIST THE DEPARTMENT OR THE EMBASSIES, SHOULD IT APPEAR IN ANY SPECIFIC CASES THAT DATA ARE MORE READILY AVAILABLE FROM THE EC COMMISSION.

2. NARRATIVE STATEMENT: THE EUROPEAN COMMUNITY HAS NOT FORMULATED A COMMON POLICY ON FOREIGN DIRECT INVESTMENT. MOST QUESTIONS AFFECTING INDUSTRY AND INVESTMENT ARE STILL HANDLED BY THE NINE MEMBER STATES. HOWEVER, THE EC COMMISSION HAS ALREADY INITIATED SEVERAL PROGRAMS IN THE INDUSTRIAL FIELD. AMONG THE PROGRAMS WHICH HAVE A BEARING ON INVESTMENT ARE AN ANTI-TRUST POLICY, A REGIONAL POLICY, A COMMON INDUSTRIAL STANDARDS PROGRAM, AND A HARMONIZATION OF COMPANY LAWS PROGRAM. A PROPOSAL HAS BEEN MADE BY THE EC COMMISSION TO OPEN UP PUBLIC PROCUREMENT. PROPOSALS FOR SPECIAL PROGRAMS ARE UNDER CONSIDERATION TO DEAL WITH IMPORTANT INDUSTRIAL SECTORS SUCH AS AIRCRAFT, COMPUTERS, PULP PAPER AND SHIPBUILDING.

3. THESE PROPOSALS ALL HAVE AS A COMMON BASIS A MEMORANDUM ON INDUSTRIAL POLICY PREPARED BY THE COMMISSION OF THE EUROPEAN COMMUNITIES IN 1970. THIS MEMORANDUM SET FORTH TWO BASIC OBJECTIVES FOR THE COMMUNITY. THE FIRST OBJECTIVE WAS TO ELIMINATE REMAINING BARRIERS TO INTRA-COMMUNITY TRADE AND INVESTMENT. THE SECOND OBJECTIVE WAS TO PROMOTE THE CREATION OF EUROPEAN-BASED TRANSNATIONAL ENTERPRISES WHICH WOULD BE ABLE TO COMPETE EFFECTIVELY WITH AMERICAN-BASED FIRMS ESTABLISHED IN EUROPE. FOLLOWING THE INSTRUCTIONS OF THE EUROPEAN SUMMIT OF OCTOBER, 1972, THE COMMISSION SUBMITTED A MEMORANDUM ON INDUSTRIAL POLICY TO THE EC COUNCIL IN MAY OF 1973 AND IN DECEMBER, THE EC COUNCIL APPROVED A TIMETABLE FOR THE PASSAGE OF VARIOUS INDUSTRIAL POLICY PROPOSALS BEGINNING IN JULY 1974.

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PAGE 03 EC BRU 02596 302000Z

4. THE ROME TREATY MAKES NO DISTINCTION AMONG THE FIRMS ESTABLISHED IN THE COMMUNITY BASED ON BENEFICIAL OWNERSHIP. ALTHOUGH THE COMMISSION'S PROPOSALS IN PRINCIPLE TREAT US SUBSIDIARIES AND EUROPEAN FIRMS IN THE SAME WAY, THE OBJECTIVE OF PROMOTING EUROPEAN-BASED TRANSNATIONAL ENTERPRISES COULD UNDER CERTAIN CIRCUMSTANCES RESULT IN ADVANTAGES FOR

EUROPEAN FIRMS IN A FEW SPECIFIC SITUATIONS, E.G. COMPUTERS, R & D SUBSIDIES. A COMMISSION PAPER ON MULTINATIONAL CORPORATIONS PROPOSES A FRAMEWORK OF MEASURES TO CORRECT PROBLEMS CREATED BY MNC'S, BUT STATES SPECIFICALLY SUCH MEASURES SHOULD APPLY IN A NON-DISCRIMINATORY WAY TO COMMUNITY AND THIRD-COUNTRY FIRMS.

5. THE COMMUNITY'S COMPETITION (ANTI-TRUST) POLICY HAS BECOME INCREASINGLY ACTIVE DURING THE PAST FEW YEARS. THE COMMISSION HAS MORE INDEPENDENT AUTHORITY IN THE REGULATION OF COMPETITION THAN IN ANY OTHER FIELD. IT HAS ACTED SUCCESSFULLY IN CASES INVOLVING SEVERAL LARGE EUROPEAN CARTELS IN THE EXERCISE OF ITS POWERS AGAINST RESTRICTIVE BUSINESS PRACTICES. IN SO DOING, IT ESTABLISHED THE JURISDICTION OF THE EUROPEAN COURT OF JUSTICE OVER FIRMS BASED OUTSIDE OF THE COMMUNITY TO THE EXTENT THAT THE FIRMS' ACTIVITIES AFFECT COMPETITION WITHIN THE COMMUNITY. IN JULY, 1973, THE COMMISSION SUBMITTED TO THE EC COUNCIL A MERGER CONTROL PROPOSAL WHICH REQUIRES, AMONG OTHER THINGS, THAT MERGERS INVOLVING FIRMS WITH TOTAL SALES OF OVER 1 BILLION UNITS OF ACCOUNT (\$1.2 BILLION) RECEIVE PRIOR APPROVAL OF THE COMMISSION. THE EC COMPETITION AUTHORITIES ARE EASILY ACCESSIBLE TO BUSINESSMEN WHO ANTICIPATE PROBLEMS. IN THE EXERCISE OF ITS POWERS IN THIS FIELD, THE EC COMMISSION APPEARS TO HAVE APPLIED THE SAME STANDARDS IN THE CASE OF AMERICAN-OWNED FIRMS AND OTHER FIRMS.  
MYERSON

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